



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR H.B. 2879

~~conformity; internal revenue code; exception~~
(NOW: DOR; administrative rulings; procedures)

Purpose

Allows the Arizona Department of Revenue (ADOR) to issue draft rulings, procedures, notices and administrative announcements (administrative rulings) that apply to tax laws and regulations and outlines administrative ruling procedures. Modifies the statutorily prescribed process for ADOR to issue a private taxpayer ruling or a taxpayer information ruling.

Background

ADOR may issue private taxpayer rulings to taxpayers and potential taxpayers upon request. Each request must be in writing and: 1) state the name, address and, if applicable, the relevant taxpayer identifying number; 2) describe all facts relevant to the requested ruling; 3) state whether the issue or related issues are being considered by ADOR in connection with an active audit, protest or appeal that involves the taxpayer or potential taxpayer and whether the same request has been or is being submitted to another taxing authority for a ruling; and 4) be signed by the taxpayer or potential taxpayer who makes the request. A taxpayer ruling request that is signed by a representative of a taxpayer or potential taxpayer must be considered a request for a taxpayer information ruling.

ADOR must attempt to issue private taxpayer rulings or taxpayer information rulings within 45 days after receiving a written request and the facts that are relevant to the ruling. At the time of making a private taxpayer or taxpayer information ruling request, a taxpayer or a potential taxpayer may submit a written request that the ruling not be published due to concerns about confidentiality or other disclosed reasons. If the Director of ADOR (Director) determines that the ruling should not be published, the ruling must be deemed confidential. If the Director determines that the ruling should be published, the taxpayer may withdraw the ruling request and ADOR must not proceed with the ruling if the request is withdrawn ([A.R.S. § 42-2101](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Administrative Rulings

1. Allows ADOR to issue draft administrative rulings that apply to tax laws and regulations, either generally or for a specific set of facts, and that otherwise do not change the substance and meaning of a statute or rule.

2. Requires ADOR to allow for and accept written public comments on a draft administrative ruling, except for private taxpayer rulings.
3. Deems an administrative ruling final and effective 30 days after the administrative ruling is issued for public comment and review, unless ADOR withdraws the administrative ruling.
4. Allows ADOR to amend the draft administrative ruling in response to public comments received during the 30-day period.
5. Requires ADOR to establish and maintain on its website a publicly accessible record of all draft and final administrative rulings and to prominently announce additions, modifications and other changes to the record on the website's home page.
6. Stipulates that a draft administrative ruling that applies to tax laws and regulations is not considered final and effective unless the administrative ruling contains:
 - a) the subject matter of the draft administrative ruling;
 - b) a citation to all statutes, rules and published administrative rulings relating to the draft administrative ruling;
 - c) the name and contact information of ADOR personnel with whom persons may communicate regarding the draft administrative ruling;
 - d) the date on which the draft administrative ruling was proposed;
 - e) the date on which the draft administrative ruling will become final and effective;
 - f) a statement of whether public comments on the draft administrative ruling were received and where the written comments and ADOR's response to those comments are available for inspection; and
 - g) the signature of the Director.
7. Requires ADOR, before a draft administrative ruling is effective and final, to consider any public comments received on the draft administrative ruling.
8. Requires ADOR, if ADOR chooses not to incorporate a public comment into the final administrative ruling, to respond to the comment explaining the basis for the decision and preserve that response as a public record.
9. Requires the Director to ensure that any public records resulting from a public comment comply with statutorily prescribed taxpayer confidentiality requirements.
10. Exempts, from administrative ruling procedures, ADOR actions that are subject to:
 - a) administrative procedure and rulemaking review;
 - b) private taxpayer rulings;
 - c) tax forms and instructions;
 - d) routine notices that remind taxpayers of normal filing obligations; and
 - e) routine ADOR communications that do not substantively apply to and interpret tax laws and regulations.
11. Requires a court to decide all questions of law without deference to any determination that is made by ADOR.

12. Stipulates that any final ADOR action taken is an appealable action, with certain exceptions, that may be appealed within 30 days after the effective date of the administrative ruling.

Private Taxpayer Rulings and Taxpayer Information Rulings

13. Requires ADOR, within 30 days after receiving a written request for a private taxpayer ruling or taxpayer information ruling, to meet with the requestor to discuss the facts and circumstances pertaining to the request, at a time and place designated by ADOR, unless the requester waives the meeting.
14. Requires ADOR to issue, rather than attempt to issue, private taxpayer rulings or taxpayer information rulings within 90 days, rather than 45 days, after receiving a written request, unless ADOR and the requestor agree to delay the ruling.
15. Removes the requirement that ADOR receive the facts that are relevant to the private taxpayer ruling or taxpayer information ruling before issuing a private taxpayer ruling or taxpayer information ruling.
16. Allows ADOR to decline to issue a private taxpayer ruling or taxpayer information ruling and stipulates that ADOR is not required to issue a private taxpayer ruling or taxpayer information ruling.
17. Requires ADOR, if ADOR declines to issue a private taxpayer ruling or taxpayer information ruling, to issue appropriate written assistance or advice that explains the reason ADOR is declining to issue a private taxpayer ruling or taxpayer information ruling and provide a general discussion of relevant tax principles or applications.
18. Requires ADOR to provide the requestor with a draft of the private taxpayer ruling or taxpayer information ruling at least 30 days before issuing the private taxpayer ruling or taxpayer information ruling.
19. Requires ADOR, if requested by the requestor, to meet with the requestor within 14 days after providing the draft private taxpayer ruling or taxpayer information ruling, at a time and place designated by ADOR, to discuss the contents of the draft private taxpayer ruling or taxpayer information ruling.
20. Requires that a private taxpayer ruling or taxpayer information ruling be kept confidential if the Director determines that a private taxpayer ruling or taxpayer information ruling should not be published and the taxpayer requests that the private taxpayer ruling or taxpayer information ruling be confidential.
21. Allows a taxpayer, if the Director determines that a private taxpayer ruling or taxpayer information ruling should be published and the taxpayer requests that the private taxpayer ruling or taxpayer information ruling be kept confidential, to withdraw the private taxpayer ruling or taxpayer information ruling request and prohibits ADOR from proceeding with a private taxpayer ruling or taxpayer information ruling if the request is withdrawn.

Miscellaneous

22. Makes technical and conforming changes.

23. Becomes effective on the general effective date.

Amendments Adopted by Committee

- Adopted the strike-everything amendment.

Amendments Adopted by Committee of the Whole

- Requires, for a draft administrative ruling to become final and effective, the signature of the Director.

Senate Action

FIN 3/24/21 DPA/SE 4-2-4

Prepared by Senate Research

April 26, 2021

MG/ML/gs